

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Crl.MC.No. 3764 of 2007()

SC.311/2003 of ASSISTANT SESSIONS COURT, THRISSUR
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PETITIONER:

MOHANAN, AGED 52 YEARS,
S/O.KRISHNAN,
ANALIPARAMBIL HOUSE,
KALLETUMKARA VILLAGE,
KALLETUMKARA VADAKUMURI DESOM,
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

BY ADV. SRI.K.DIVAKARAN
SRI.RIJO M.S.

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3764 of 2007

Dated this the 17th day of December 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable under the Kerala Abkari Act. Investigation is complete. Final report has already been filed. Cognizance has been taken. The case was committed to the court of Session. The petitioner had appeared before the committal court also.

2. The petitioner went in search of employment abroad. He has been working abroad. The petitioner did not receive any notice from the Sessions Court. After the Sessions court took cognizance, the Sessions Court registered the case S.C.No.311/03. That Sessions case is now pending before the Principal Assistant Sessions Court, Trichur. As the petitioner did not appear before the learned Sessions Judge, the learned Principal Assistant Sessions Judge has now issued coercive processes against the petitioner.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. He had received no notice, process or summons from the Sessions Court after it was committed. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be

considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

4. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

5. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007